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TSPA, EZ, FR, UK, GM

SUBJECT: (C) U.S. COMMENTS ON EU DRAFT CODE OF CONDUCT FOR  
OUTER SPACE ACTIVITIES DELIVERED TO GERMANY

REF: STATE 2007

Classified By: Global Affairs Unit Chief Don L. Brown for  
reasons 1.4 (a), (d), (e), and (g)

¶1. (C) Germany welcomes the "timely and thoughtful" comments the U.S. provided regarding the EU Council's "Code of Conduct for Outer Space Activities." The EU will reportedly issue a collective response addressing U.S. concerns at a later date.

A German MFA official is &hopeful8 but not "optimistic8 that the EU will complete the Code of Conduct by the end of 2009 and noted that the presence of the Chinese/Russian-proposed "Treaty on the Prevention of the Placement of Weapons in Outer Space" may cause some difficulties for the passage of the EU proposed Code of Conduct.

¶2. (C) On January 14, EconOff delivered reftel demarche to German MFA Desk Officer, Ellen Goelz, who said that the U.S. was the first country to respond to the December 8, 2008 EU Council draft Code of Conduct. Goelz said that Germany's next step would be to hold interagency consultations including, but not limited to the Ministry of Defense (MOD) and the German Space Agency (DLR). She said that the U.S. should not expect a direct response from Germany on the U.S. concerns; instead, there will be a single EU response and added that this could take some time.

¶3. (C) Goelz emphasized that the Code of Conduct is not meant to be legally-binding, but rather is intended to establish a "norm" of agreed-upon behavior for space-faring nations. Pointing to the Comprehensive Test Ban Treaty (CTBT) as an example of a de facto Code of Conduct, she said that though not ratified, it has effectively discouraged nations from nuclear testing.

¶4. (C) Goelz said the presence of the Chinese/Russian-proposed "Treaty on the Prevention of the Placement of Weapons in Outer Space" might complicate how nations view the Code of Conduct, but ultimately she thought they could coexist. Noting that the Chinese/Russian proposal is legally binding, Goelz was not optimistic about its prospects for ratification. She also commented that the Chinese/Russian proposal did not address using earth-based weapons to attack/disable space assets and that the Chinese

have admitted this.

COMMENT

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15. (C) Germany's ideal vision of the proposed Code of Conduct is that it should be a "legally binding" treaty. However, Germany assumes that passage of it as a treaty would be unlikely, given expected opposition from the U.S., Russia, and China. However, Germany remains a strong supporter of the Code of Conduct, as it establishes (at a minimum) a well-defined set of norms for space-faring nations. Germany is not optimistic that the EU will be able to agree upon the Code in 2009, given the number of nations involved, but will make every effort to keep it on track. Goelz was also very keen to hear about any policy changes the incoming Obama Administration may enact that could affect the current U.S. position on the Code of Conduct.

Koenig